



VOSH PROGRAM DIRECTIVE: 07-007

ISSUED: July 1, 2007

SUBJECT: Amendment to Bylaws of the Safety and Health Codes Board

A. Purpose.

This revised directive incorporates the revised Bylaws of the Safety and Health Codes Board into the VOSH Program.

This Program Directive is an internal guideline, not a statutory or regulatory rule, and is intended to provide instructions to VOSH personnel regarding internal operation of the Virginia Occupational Safety and Health Program and is solely for the benefit of the program. This document is not subject to the Virginia Register Act or the Administrative Process Act; it does not have general application and is not being enforced as having the force of law.

B. Scope.

This directive applies VOSH-wide.

C. Reference.

Not Applicable.

D. Cancellation.

VOSH Program Directive 06-007B (September 1, 1991).

E. Action.

None. This Program Directive memorializes the Board Bylaws into the VOSH Program Directives System.

F. Effective Date.

July 1, 2007.

G. Expiration Date.

Not Applicable.

H. Background.

In 1986, the initial bylaws were developed at the request of then Commissioner Amato to provide a uniform set of procedures by which the Board would conduct business. At that time, a three-member subcommittee of the Board prepared draft bylaws which were presented to the Board and approved with some changes at its June 17, 1986 meeting.

The bylaws were revised and approved by the Board at its September 18, 1990 meeting to:

- a. comply with statutory changes to § 40.1-22 of the *Code of Virginia* which mandated that the provisions of the Virginia Administrative Process Act would apply to the rules, regulations and proceedings of the Board; and
- b. require all meetings to be governed by parliamentary procedures, as defined in *Robert's Rules of Order*.

The bylaws were again amended at the July 30, 1991, meeting of the Board at the suggestion of then Commissioner Amato to remove the Commissioner of Labor and Industry as a member ex-officio of the Board and to add the Executive Director of the Department of Waste Management as a member ex-officio with the authority to designate a representative to sit in place of the Director with full Board membership status.

In 1992, a change to the *Code of Virginia* merged the Department of Waste Management, the State Water Control Board, the Department of Air Pollution Control and the Council of the Environment to create the Department of Environmental Quality (DEQ). Since that time, the Department of Waste Management's ex-officio position has been filled by the Executive Director [now Director] of DEQ.

The 2004 revision was necessary because the bylaws no longer accurately or adequately reflect statutory and regulatory changes which have occurred that govern or otherwise impact the functioning of policy boards of the Commonwealth. Additionally, the current bylaws failed to include various administrative procedures, such as what to do if a quorum is not present, removal of officers and the procedure to execute the completed actions of the Board.

I. Summary.

The attached newly revised bylaws, originally presented to the Board for its initial consideration at its April 21, 2004 meeting, include all items in the existing bylaws, but are significantly more comprehensive in scope than the existing bylaws. Beyond updating the bylaws to reflect current statutory and regulatory requirements, this revision is a complete work-plan document in that it sets out the statutory responsibilities of the Board, the terms of member appointments, resignation of membership, procedures for the filling of vacancies, and reimbursement policy.

Other changes include greater detail as to the duties of the Board's officers during meetings, elimination of the possibility of voting by proxy, reflects the impact of the internet on public participation in the regulatory process and the precedence of statutory and regulatory provisions dealing with issues, such as conflict of interest and freedom of information, and finally replacement of the ex-officio membership of the Director of what was the Department of Waste Management with the Department of Environmental Quality (DEQ).

This final revision of the bylaws includes a minor change for style and eliminates references directing actions to be undertaken by individuals or entities other than the Board itself.

C. Ray Davenport
Commissioner

Attachment: Bylaws for the Safety and Health Codes Board

Distribution: Commissioner of Labor and Industry
Assistant Commissioner - Programs
VOSH Directors and Managers
VOSH Compliance and Cooperative Programs Staff
Legal Support and IMIS Staffs
OSHA Region III and Norfolk Area Offices

Bylaws for the Safety and Health Codes Board

As adopted by the
Safety and Health Codes Board

Date: December 14, 2004



VIRGINIA OCCUPATIONAL SAFETY AND HEALTH PROGRAM

VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

Effective date: December 14, 2004

BYLAWS FOR THE SAFETY AND HEALTH CODES BOARD

I. ORGANIZATION AND MEMBERSHIP.

The Safety and Health Codes Board (the “Board”) is comprised of fourteen members appointed by the Executive who have the requisite previous vocation, employment, affiliation or ex-officio status to represent their various constituencies as required in § 40.1-22(1) of the *Code of Virginia*. For the purposes of these Bylaws, the term “Commissioner” shall mean the Commissioner of Labor and Industry or his staff unless otherwise specified. The term “Department” shall mean the Department of Labor and Industry unless otherwise specified.

II. POWERS AND DUTIES OF THE BOARD.

The powers and duties of the Board are mandated in § 40.1-22 of the *Code of Virginia*. Section 40.1-22(5) provides that “The Board, with the advice of the Commissioner, is hereby authorized to adopt, alter, amend, or repeal rules and regulations to further, protect and promote the safety and health of employees in places of employment over which it has jurisdiction and to effect compliance with the Federal Occupational Safety and Health Act of 1970 (P. L. 91-596), and as may be necessary to carry out its functions established under this title.”

Further, “All such rules and regulations shall be designed to protect and promote the safety and health of such employees. In making such rules and regulations to protect the occupational safety and health of employees, the Board shall adopt the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity. However, such standards shall be at least as stringent as the standards promulgated by the Federal Occupational Safety and Health Act of 1970 (P.L. 91-596).”

“In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws. Whenever practicable, the standard promulgated shall be expressed in terms of objective criteria and of the performance desired.” (§ 40.1-22(5) of the *Code of Virginia*.)

III. OFFICERS.

Annually in its first meeting after the start of the state fiscal year, the Board shall, by open ballot, elect from among its members, a Chair and a Vice-chair who shall not be eligible to directly succeed themselves. The Chair or Vice-chair may be removed from office by majority resolution of the Board.

A. Duties of the Chair:

1. To preside over all meetings of the Board except as in paragraph B. below;
2. To sign or otherwise authorize documents relating to actions of the Board;
3. To make all rulings on procedures and points of order. (*Such rulings are final unless overruled by a majority vote of the Board.*)
4. To appoint a Secretary from the members of the Board;
5. To appoint Board committee members and committee Chairs, subject to ratification by the Board;
6. To maintain regular liaison with the Department;
7. To be the spokesperson and representative of the Board for any matter dealt with by Board resolution or these Bylaws; and
8. To perform such other duties as determined by the Board within the scope of its authority.

B. Duties of the Vice-chair are to perform the duties of the Chair in the absence of the Chair.

C. Duties of the Secretary who, in conjunction with staff of the Department, shall be responsible for keeping a faithful copy of the minutes of the meeting. Any parts of the meetings designated as public hearings shall be stenographically or otherwise recorded to assure a complete and accurate record of the remarks and events of the hearing.

IV. MEETINGS.

With the exception of closed meetings conducted in accordance with the Virginia Freedom of Information Act, all meetings and hearings of the Board shall constitute business of the citizens of the Commonwealth and shall be open to the public. At all such open meetings of the Board, there shall be a designated time when members of the public may address the Board on any subject or issue under the jurisdiction of the Board. The Board shall meet at least once every six months as required by the *Code of Virginia* with other meetings called by the Chair or any three members of the Board. The meeting time and place shall be fixed by the Board in conjunction with staff of the Department. The first meeting held after the first of July of each year shall be designated as the “annual meeting” and shall include the annual election of officers.

The Board shall notify its members of all meetings or public hearings of the Board not less than 30 calendar days prior to the scheduled date of such meeting or hearing and have a notice to the public regarding the meeting posted on the Department’s website.

The Chair or, in the absence of the Chair, the Vice-chair shall preside over the meetings. If both the Chair and the Vice-chair are absent, the meeting shall be chaired by the Secretary.

The meetings and public hearings of the Board and any committees or subcommittees it may choose to create shall be governed by:

- i.) These bylaws; and
- ii.) Parliamentary procedure as defined in *Robert’ Rules of Order*.

V. QUORUM.

Five members of the Board in attendance shall constitute a quorum for the transaction of business for all matters before the Board. The attendance of a sufficient number of members to constitute a quorum at any meeting or public hearing of the Board shall be established by the Chair who shall report that a quorum is present for inclusion in the minutes of such meetings or public hearings. Upon the calling of a meeting to order where no quorum is present, and after a reasonable time period as determined by the Chair, the meeting shall be adjourned and rescheduled to a date fixed by the Chair in conjunction with staff of the Department.

VI. AGENDA.

Unless circumstances otherwise dictate, a proposed agenda shall be sent to each member of the Board at least two weeks prior to the time for meeting. Any member of the Board may notify the Commissioner of any item he/she wishes to be placed on the agenda, and it shall be placed on the agenda for the Board. Unless otherwise directed by the Chair or vote of the Board, the proposed agenda shall be set in the following order:

- A. Call to Order.
- B. Approval of the agenda for the meeting.
- C. Approval of the minutes of any previous meetings.
- D. Election of Officers (*first meeting after July only*).
- E. Opportunity for Public Comment to the Board.
- F. Old Business.
- G. New Business.
- H. Items of interest from the Department.
- I. Items of interest from any member of the Board.
- J. Adjournment.

VII. CONDUCT OF MEETING.

The Chair or, in the absence of the Chair, the Vice-chair shall preside over the meetings. If both the Chair and the Vice-chair are absent, the meeting shall be chaired by the Secretary.

The meetings and public hearings of the Board and any committees or subcommittees it may choose to create shall be governed by:

- i.) These bylaws; and
- ii.) Parliamentary procedure as defined in Robert's Rules of Order.

VIII. MOTIONS.

Any member excluding the Chair may make a motion concerning any item on the agenda which is pending before the Board. The Chair shall require the movant to either reduce the motion to writing or to state it clearly. In case of oral motions, or oral amended motions, the Chair shall require the Secretary to repeat

the motion after it is made. All motions are required to have a second. The Chair shall allow reasonable time to debate any motion and, at his or her discretion, may set time limits and the order of debate. The Chair's limitation on debate can be over-ridden by a majority vote of a quorum of those present. All motions may be amended provided there is a second, and an amended motion shall take precedence over the main motion. Amendments to amended motions shall either be accepted or voted upon without debate.

IX. DESIGNATED REPRESENTATIVES.

The Commissioner of Health or the Executive Director of the Department of Environmental Quality may authorize a representative to sit in his or her place on the Board. Such authorization shall be made in writing to the Chair of the Board. The designation shall state the name of the authorized representative, and the letter of appointment shall be made a part of the permanent minutes of the Board. The authorized representative for the Commissioner of Health or Executive Director of the Department of Environmental Quality will have full membership status. Any other members may authorize a representative to sit in his or her place in the same manner as is provided for the Commissioner of Health and Executive Director of the Department of Environmental Quality except that such authorized representative is not entitled to vote on matters before the Board or be counted as part of a quorum.

X. VOTING.

At all meetings, each member is entitled to have one vote. All voting shall be by open ballot or voice vote. A simple majority vote in the affirmative will suffice to approve motions brought before the Board. There shall be no voting by proxy.

XI. CLOSED MEETINGS .

No closed meeting of the Board shall be held unless a majority of those present vote in open session to hold such meeting. The reason for such meeting shall be one designated in the Virginia Freedom of Information Act. The general subject matter and the purpose of the executive session shall be fully stated in the agenda or in the minutes of the Board. Minutes of a closed meeting shall be taken only as the Chair shall direct.

XII. EXECUTION OF DOCUMENTS.

The execution of documents, putting forth the agreed actions of the Board for implementation by the Department of Labor and Industry, shall be deemed to be properly executed if witnessed by a staff member of the Department.

XIII. REIMBURSEMENT AND PER DIEM.

Reimbursement for expenses and payment of per diem shall be in accordance with State statutory and regulatory requirements and the state employee travel policy as implemented by the Department.

XIV. TERMS OF APPOINTMENT.

Terms of Board appointments are for four years as set out in the *Code of Virginia*, except where a Board member is appointed to fill the remainder of an existing term.

XV. RESIGNATION OF BOARD MEMBERS.

The resignation of a member of the Board shall be made by notice in writing, addressed and delivered by post to the Secretary of the Commonwealth of Virginia, the Board Chair, and the Commissioner of Labor and Industry.

XVI. CONFLICT OF INTEREST.

A conflict of interest arises when a private or personal interest of a Board member supersedes or competes with dedication to the interests of the Board. All issues of conflict of interest for the Board are covered by the State and Local Government Conflict of Interests Act, Chapter 31 of Title 2.2 of the *Code of Virginia*.

XVII. VACANCIES.

Upon notification of a vacancy, the Chair shall inform the Commissioner of Labor and Industry and request that he inform the Secretary of Commerce and Trade and the Secretary of the Commonwealth to begin the process of filling the vacancy.

XVIII. CIRCULATION OF MINUTES.

Copies of the draft minutes of Board meetings will be sent to members of the Board following each meeting upon transcription. The draft minutes will also be publicly posted on the Department's website.

XIX. PRECEDENCE.

Where State law, regulation or any travel and reimbursement policies or procedures of the Department are found to be at variance with the bylaws of the Board, the law, regulation, policy or procedure shall take precedence.

XX. SUNDRY PROVISIONS.

These bylaws may be amended in full or in part by a two-thirds affirmative vote of a quorum at a meeting called wholly or in part for that purpose. All proposed amendments to the bylaws shall be circulated in writing to the entire membership and the Commissioner at least two weeks prior to the vote.